

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B09-PLR-127941-02

Date:

September 18, 2002

Re:

LEGEND:

Taxpayer =

Decedent =

Corporation =

State =

A =

Date 1 =

Date 2 =

Z =

Dear :

This is in response to your letter, dated May 9, 2002, and subsequent correspondence, submitted on behalf of Taxpayer, requesting a ruling under § 2057 of the Internal Revenue Code.

The facts and representations submitted are summarized as follows: Taxpayer is the son of Decedent. Decedent was the president and general manager of Corporation, a corporation located in State, engaged in the business of A. Prior to Decedent's death, all of the common and preferred stock of Corporation was owned by Decedent and her four sons. Decedent died on Date 1. All of Decedent's common stock in Corporation passed to her four sons and all of Decedent's preferred stock in Corporation passed to her three daughters. After distribution of Decedent's estate, Corporation was owned entirely by Decedent's sons and daughters.

On or about Date 2, Decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return was filed. On the Form 706, Decedent's executor elected to deduct the value of Decedent's interest in Corporation as qualified

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family-owned business interests (QFOBI) under § 2057. On Decedent's estate tax return, the reported adjusted value of Decedent's QFOBI was \$z. Decedent's executor deducted \$675,000, the maximum allowable deduction under § 2057.

Taxpayer proposes to have Corporation redeem all of his common stock in Corporation in exchange for cash and a promissory note in an amount equal to the fair market value of those shares determined as of the date of redemption. Corporation will subsequently retire the redeemed shares.

Taxpayer has requested a ruling that the proposed redemption of all of his stock in Corporation will not be considered a disposition triggering the imposition of the additional estate tax under § 2057(f)(2).

Section 2001(a) imposes a tax on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

Section 2057(a)(1) provides that for purposes of the tax imposed by § 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent. Section 2057(a)(2) provides that the deduction allowed by § 2057 shall not exceed \$675,000.

Section 2057(f)(1) provides, generally, that there is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death: (A) the material participation requirements described in § 2032A(c)(6)(B) are not met with respect to the QFOBI which was acquired (or passed) from the decedent; (B) the qualified heir disposes of any portion of a QFOBI (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under § 170(h)); (C) the qualified heir loses United States citizenship (within the meaning of § 877) or with respect to whom an event described in § 877(e)(1)(A) or (B) occurs, and such heir does not comply with the requirements of § 2057(g); or (D) the principal place of business of a trade or business of the QFOBI ceases to be located in the United States.

Section 2057(i)(1) provides that the term "qualified heir" has the meaning given to such term by § 2032A(e)(1), and includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

Section 2032A(e)(1) provides that the term "qualified heir" means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent.

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Section 2032A(e)(2) provides that the term “member of the family” means, with respect to any individual, only: (A) an ancestor of such individual; (B) the spouse of such individual; (C) a lineal descendant of such individual, of such individual's spouse, or of a parent of such individual; or (D) the spouse of any lineal descendant described in § 2032A(e)(2)(C).

In this case, Taxpayer proposes to have Corporation redeem all of his stock in Corporation in exchange for cash and a promissory note in an amount equal to the fair market value of those shares determined as of the date of redemption. The proposed redemption will result in Taxpayer disposing of his entire interest in Corporation to Corporation. Because the corporation is not a qualified heir, as defined in §§ 2057(i)(1) and 2032A(e)(1), and because a redemption is not treated as a purchase or acquisition of any of the assets of the corporation, or the stock of the corporation, by the unredeemed shareholders, the transaction will be considered a disposition causing the imposition of the additional estate tax under § 2057(f)(2). Cf. Rev. Rul. 85-73, 1985-1 C.B. 325.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as specifically ruled herein, we express or imply no opinion on the federal tax consequences of the transaction under the cited provisions or under any other provisions of the Code. Specifically, we express or imply no opinion on whether Decedent's estate qualifies for the deduction under § 2057.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with a power of attorney on file with this office, a copy of this letter is being sent to Taxpayer.

Sincerely,
Melissa C. Liquerman
Branch Chief, Branch 9
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures

Copy for section 6110 purposes
Copy of this letter